

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

JUSTIN AKONOM, et al,

Defendant

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CRIM. NO. ELH-19-0115

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**GOVERNMENT’S RESPONSE TO MOTION TO SUPPRESS
TELECOMMUNICATION AND LOCATION INFORMATION AND EVIDENCE
RELATING TO 443-943-5127 [ECF 165]**

The United States of America, by and through its attorneys, Jonathan F. Lenzner, Acting United States Attorney for the District of Maryland, Anatoly Smolkin, Assistant United States Attorneys for said District, and Jeffrey M. Hann, Special Assistant United States Attorneys for said District, respectfully submits this Response to the Defendant’s Motion To Suppress Telecommunication and Location Information Evidence Relating to 443-943-51227 (ECF No. 165) filed on behalf of Defendant Gary Horton. This response is filed in supplement to the Government’s Consolidated Response to the Defendant’s Pre-Trial Motions (ECF 124), and makes reference to that motion and its exhibits.

ARGUMENT

Defendant Horton previously raised arguments to suppress evidence obtained pursuant to a July 17, 2018 and August 16, 2018 orders for Pen Register/Trap and Trace Devices for telephone number 443-943-5127 (ECF 111), and to suppress GPS location data related to the same number pursuant to applications on May 10, 2018 and July 17, 2018 (ECF 115 and 120). These motions were addressed by the Government’s consolidated response motion (ECF 124).

With respect to the Pen Register/Trap and Trace Device arguments, the Government's factual summary can be found at ECF 124 on pages 8 and 9, and its argument begins on page 50. With respect to the GPS location data arguments, the factual summary can be found on page 10, and the response argument at page 55.

In his most recent suppression motion (ECF 165), the Defendant moves to suppress records and location data obtained by law enforcement after June 9, 2018, arguing that the Court's authorization pursuant to the May 10, 2018 *Application for An Order Authorizing Obtaining and Disclosure of Real Time or Present Location Information Without Geographic Limitations to Include Disclosure of Telecommunication Records for the Electronic Device with the Number 443-943-5127* expired on that date and was not renewed until a further order of the Court was issued on August 16, 2018. The Defendant further argues that data obtained pursuant to the August 16, 2018 order should be suppressed as fruits of the earlier allegedly unlawfully obtained data obtained after June 9, 2018. The Defendant's arguments rest on a mistaken summary of the timeline of applications and orders issued by the Court and the investigative actions of the officers.

At the outset, the Defendant's assertion that the Court's initial May 10, 2018 authorization to obtain real time tracking information would have expired on or about June 9, 2018 is correct. As discussed in their affidavits in support of the wiretap, the investigators in fact did not seek to renew their request for location data because the data was not precise enough for their purposes, and ultimately cancelled it on May 30, 2018, several days prior to its scheduled expiration. (See ECF 124, exhibit 2 at pages 20-21). As a result, no location data for the Defendant's phone was obtained for the month of June 2018 and early July 2018. However, on July 17, 2018 the Baltimore County Circuit Court again authorized the use of a Pen Register on

the 443-943-5127 phone number, which allowed the investigators to obtain call detail information as well as an order to allow the agents to obtain real time location data. (See ECF 111-2 and ECF 115-2, copies of which are attached). Subsequently, the investigators submitted a second *Application for An Order Authorizing Obtaining and Disclosure of Real Time or Present Location Information Without Geographic Limitations to Include Disclosure of Telecommunication Records for the Electronic Device with the Number 443-943-5127* on August 16, 2018 (Exhibit 1, attached), which was also granted by the Court (*Id.*) Importantly, neither the July 17, 2018 applications nor the August 16, 2018 applications use or rely on any location data obtained after the expiration of the original May 10, 2018 order for their probable cause. Indeed, no such data existed because on approximately May 30, 2018, investigators stopped receiving location data pursuant to the May 10, 2018 order.

In summary, there is no telecommunication and location evidence at issue with respect to the Defendant's 443-943-5127 cellular phone during the month of June 2018, but location data was lawfully obtained pursuant to the Baltimore County Circuit Court's orders on July 17, 2018 and August 16, 2018.

WHEREFORE the Government requests that the Defendant's Motion to Suppress Telecommunication and Location Information Evidence Relating to 443-943-51227 (ECF No. 165) be DENIED.

Respectfully Submitted,

Jonathan F. Lenzner
Acting United States Attorney

By: _____/s/_____
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ATTACHED EXHIBITS

Exhibit 1: August 16, 2018 Application for An Order Authorizing Obtaining and Disclosure of Real Time or Present Location Information Without Geographic Limitations to Include Disclosure of Telecommunication Records for the Electronic Device with the Number 443-943-5127

Attachment 2: Copy of ECF 111-2, July 17, 2018 *Application and Order Authorizing the Installation and Use of A Pen Register/Dialed Number Recorder and Caller Identification/Caller Identification Deluxe Features*

Attachment 3: Copy of ECF 115-2, July 17, 2018 *Application for An Order Authorizing Obtaining and Disclosure of Real Time or Present Location Information Without Geographic Limitations to Include Disclosure of Telecommunication Records for the Electronic Device with the Number 443-943-5127*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 30, 2021, a copy of the foregoing Response in Opposition was filed via ECF and served thereby on counsel for the defendant.

By: _____/s/_____
Jeffrey M. Hann
Special Assistant United States Attorney